



U. S. Department of Justice

Criminal Division

Office of the Assistant Attorney General

Washington, D.C. 20530

April 22, 1998

The Honorable Dan Burton, Chairman
Chairman, **Committee** on Government Reform
and Oversight Committee
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman;

I am writing in response to your letter of April 7, 1998 requesting the Department of Justice's position on the Committee on Government Reform and Oversight granting immunity to Kent La. As you know, we have met with Dick **Bennett**, Kenneth **Ballen** and other members of the Majority and Minority staff in an attempt to accommodate the Committee's desire to obtain **Mr.** La's testimony and our desire that any action by the Committee not compromise the Department's ongoing criminal investigation. In our view, if Mr. La **were** to testify publicly at this time, the Department's criminal investigation could in fact be compromised. Even if Mr. La were to testify in a closed session, any disclosure **or** leak of that testimony, whether intentional or inadvertent, could seriously compromise the investigation and any subsequent prosecutions, under the rulings of Kastuar, North, Poindexter and related cases.

During our discussions with the Committee staff, most **recently on April 20, 1998**, we tried to convey to you that our preference would be to avoid any Committee action to immunize him. Because of your strong interest in securing his information at this time, we nevertheless indicated our **willingness** not to oppose a grant of immunity to Mr. La under certain conditions. The Department of Justice, therefore, is willing to withdraw its objection to the Committee granting immunity to Mr. La if, and only if, it agrees to adhere strictly to the following conditions in examining Mr. La. Based on our discussions with Committee staff, we understand that these conditions are acceptable to the **Committee**. The conditions that the Committee agrees to follow in return for the Department of Justice withdrawing its objection to the Committee granting immunity to Mr. La are:

1. The Committee will take Mr. La's deposition in **a** closed executive session attended only by Mr. La, his counsel, one **staff member from** the Majority, one-staff member from the Minority, and a court reporter.

2. The reporter will make only two copies of the deposition transcript.

3. The Committee staff who took the deposition will be provided one copy of the deposition transcript and will maintain that copy at a mutually acceptable secure location under conditions that assure that only authorized persons may have access to the transcript and that no copies of the transcript may be made. The only persons authorized to have access to the transcript are Members of the Committee, the two staff members who took the deposition, and the majority and minority chief counsel, if they are not the same persons who took the deposition. [The persons described in the preceding sentence are hereinafter referred to as "the authorized persons."]

4. The authorized persons may not copy the transcript, but may take notes, as long as they maintain the notes at the same location and under the same conditions as the transcript is maintained. The authorized persons may discuss the transcript with any other authorized persons, but may not discuss any aspect of the substance of the transcript with any other person, including Committee staff, other Members of Congress, or the public until such time as the Justice Department states that it has no objection to public disclosure of the testimony because release of the transcript or its contents would not compromise the criminal investigation.

5. The second copy of the transcript will be provided to a designated attorney within the Department of Justice, but who is not assigned to the Campaign Financing Task Force, who will review the transcript to determine if public release of the testimony could compromise the Department's ongoing criminal investigations. The designated attorney will maintain the transcript in a secure location. No Department of Justice employee other than the designated attorney will be permitted to review the transcript.

6. The Committee will not present Mr. La's public testimony until and unless the Department of Justice attorney has made the determination, discussed in No. 5, above, that public disclosure of the transcript or its contents would not compromise the investigation.

7. The designated attorney will meet with attorneys and investigators conducting the criminal investigation as necessary in order to obtain the facts needed to evaluate the transcript. The designated attorney will not discuss the transcript or its contents with any other employee of the Justice Department, or any person other than the two staff members who took Mr. La's deposition or the majority and minority chief counsel, until and unless the designated attorney has made the determination discussed in No. 5, above.

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We **recognize** that under 18 U.S.C. § 6005, the Committee has the statutory authority to vote to grant immunity to a witness regardless of the position of the Justice Department. We believe, however, that the terms and conditions set forth above will satisfy the Committee's needs while hopefully protecting the Justice Department's interest in conducting thorough investigations and prosecutions that are not subject to Kastigar hearings **or** related challenges. The Department has determined that if the Committee were to grant Mr. La immunity under 18 U.S.C. § 6005 at this time and absent the restrictions outlined above, it would clearly compromise the Department's ongoing criminal investigation and make it more difficult to obtain convictions of any person(s) who might eventually be charged with a crime.

Sincerely yours,



Mark **M** Richard
Acting Assistant Attorney General

cc: **The Honorable Henry Waxman**
Ranking Minority Member